

## **804 KAR 4:330. Procedures for violations of KRS 244.165.**

RELATES TO: KRS 243.155, 244.165

STATUTORY AUTHORITY: KRS 241.060(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 241.060(1) authorizes the State Alcoholic Beverage Control Board to promulgate administrative regulations regarding control of the sale of alcoholic beverages. This administrative regulation is necessary to provide procedural due process for a person or business alleged to have committed a violation of KRS 244.165.

Section 1. (1) If the department finds probable cause that a first offense violation of KRS 244.165 has occurred, it shall:

- (a) Issue an administrative citation to the alleged violator; and
- (b) Conduct a hearing on the charge in accordance with KRS Chapter 13B.

(2) If the board determines that a violation occurred, it shall issue a cease and desist order to the violator.

Section 2. In a proceeding brought pursuant to KRS 244.165, the department shall bear the burden of proving that the alleged violation was accompanied by the following mental state:

- (1) Willful;
- (2) Intentional; or
- (3) Reckless.

Section 3. A person found to have willfully, intentionally, or recklessly committed a second or subsequent violation of KRS 244.165, shall be referred to the Commonwealth's Attorney for criminal prosecution in the county of venue. (23 Ky.R. 2367; 2989; eff. 2-14-1997; 33 Ky.R. 1152; eff. 1-5-2007; TAm eff. 4-28-2015; Crt eff. 3-26-2019.)